

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CIVIL APPELLATE JURISDICTION**

CONTEMPT PETITION NO.157 OF 2006

Shri Rajaram B. Dalvi & Ors. ..Petitioners.

V/s.

Shri Shaikhar Sinha Shetty & Anr. ..Respondents.

Mr.S.M.Sabrad for petitioners.

Mrs. S.S.Bhende, AGP for respondent-State.

Mr.Tejpall Ingale for respondent No.1.

CORAM: A.M.KHANWILKAR, J

DATE : JULY 31, 2006.

P.C. :

1. Heard counsel for the parties. Perused the relevant pleadings on record.

2. The grievance in this petition is that the respondents have wilfully disobeyed the order of injunction passed by this court in Writ Petition No.4479 of 2001. The order in question is dated 21st September, 2001. The operative part which has been allegedly disobeyed by the respondents reads thus:

"There shall be ad-interim relief in terms of prayer clauses(c) and (d) which reads as under:

"(c) Pending the hearing and final disposal of the present Writ Petition, this Hon'ble be pleased to direct the Respondent

to forthwith make payment of the arrears of rent which is due and payable to the Petitioner till day.

(d) Pending the hearing and final disposal of the present Writ Petition, by an order of injunction this Honourable High Court be pleased to restrain the Respondent from creating any third party right, title or interest and/or from carrying out any construction of whatsoever nature in the suit premises admeasuring 40 feet in length east-west and 27 feet in length of north-south, out of city survey No.1419 situated at Jaysingpur, in any manner whatsoever."

The respondent thereafter, filed Civil Application being Civil Application No.2032 of 2005 in Writ Petition No.4479 of 2001. The same was disposed of by order dated 13th September, 2005. The relevant part of the operative part of the order reads thus:

"(a) The applicant is permitted to carry out the repairs to the roof from outside as well as from inside. It is clarified that he shall merely carry out the repair work and not construct any permanent structure inside or outside the suit premises. The expenses of the repair work will be borne by the applicant. This repair work shall not give rise to any rights in favour of the applicant, Needless to say that even the repair work carried out by the applicant will be subject to the final decision that may be passed in the writ petition."

From the plain reading of this part of the order, it is obvious that the respondent was permitted to carry out the repairs to the roof from outside as well as from inside. However, the applicant/respondent was

prevented from constructing any permanent structure inside or outside the suit premises. Grievance made in this petition, even if accepted as it is, only suggests that the respondents carried out repairs to the suit structures, particularly damaged roof and ceiling by replacing the damaged and broken tiles and cement sheets and also damaged portion of wall towards eastern side and northern side in the month of March, 2006. That however, in my opinion, does not amount to breach of the order passed by this court. Accordingly, it is not a case for initiating contempt action. Hence dismissed. Notice issued to the respondents is discharged.